

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

JOHN L. RUST and KAREN J. RUST,	:	C. A. NO. 07-222 (GMS)
	:	
Plaintiffs,	:	
	:	
vs.	:	NON ADR CASE
	:	
BIOMEDICAL TISSUE SERVICES,	:	
LTD., MICHAEL MASTROMARINO,	:	
REGENERATION TECHNOLOGIES,	:	
INC., and MEDTRONIC SOFAMOR	:	JURY TRIAL OF TWELVE DEMANDED
DANEK, USA, INC.,	:	
	:	
Defendants.	:	

**AMENDMENT TO COMPLAINT PURSUANT TO  
SUPERIOR COURT RULE 4(h)**

Plaintiffs, John L. Rust and Karen J. Rust, amend their Amended Complaint as originally filed on March 28, 2007 by adding paragraph 79 which is intended to be incorporated in the aforesaid Amended Complaint and to be made a part thereof.

79. Defendant, Michael Mastromarino, is an individual residing in the State of New Jersey. Thus, service of process upon him was required under 10 Del. C. §3104. On May 4, 2007, pursuant to the requirements of 10 Del. C. §3104, Plaintiffs' attorney mailed to Defendant, Michael Mastromarino a copy of the process and Amended Complaint which was served upon the Secretary of State on April 9, 2007, by registered mail, postage prepaid, return receipt requested, together with a letter informing him that the original of said process and Amended Complaint had been served upon the Secretary of State, and that in accordance with 10 Del.

C. §3104, the service was effectual for all intents and purposes as if it had been made upon him personally within the State. On May 14, 2007, the return receipt was returned to Stumpf, Vickers & Sandy, P.A. A copy of the letter together with the registered mail receipt has been filed with the Court in a proof of receipt notice and affidavit.

Defendant, Biomedical Tissue Services, Ltd., is a non-resident corporation of the State of Delaware. Thus, service of process upon them was required under 10 Del. C. §3104. On May 4, 2007, pursuant to the requirements of 10 Del. C. §3104, Plaintiffs' attorney mailed to Defendant, Biomedical Tissue Services, Ltd., a copy of the process and Amended Complaint which was served upon the Secretary of State on April 9, 2007, by registered mail, postage prepaid, return receipt requested, together with a letter informing them that the original of said process and Amended Complaint had been served upon the Secretary of State, and that in accordance with 10 Del. C. §3104, the service was effectual for all intents and purposes as if it had been made upon them personally within the State. On May 14, 2007, the return receipt was returned to Stumpf, Vickers & Sandy, P.A. A copy of the letter together with the registered mail receipt has been filed with the Court in a proof of receipt notice and affidavit.

STUMPF, VICKERS & SANDY, P.A.  
8 West Market Street  
Georgetown, DE 19947  
Attorney for Plaintiffs

/s/ Brian F. Dolan

BY: \_\_\_\_\_  
Brian F. Dolan  
I.D. #3190

DATED: May 18, 2007

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN L. RUST and KAREN J. RUST,	:	C. A. NO. 07-222 (GMS)
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Plaintiffs,	:	
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INC., and MEDTRONIC SOFAMOR	:	JURY TRIAL OF TWELVE DEMANDED
DANEK, USA, INC.,	:	
	:	
Defendants.	:	

**NOTICE OF RECEIPT**

Plaintiffs, by their attorney, hereby files with this Court, in accordance with 10 Del. C. §3104, proof of receipts of notice by the Defendants, Michael Mastromarino and Biomedical Tissue Services, Ltd. Attached hereto as Exhibit "A" are the signed return receipts. The Affidavit of Attorney evidencing transmittal of said registered articles is attached hereto as Exhibit "B" and the actual notices sent to Defendants are attached hereto as Exhibit "C".

STUMPF, VICKERS & SANDY, P.A.  
8 West Market Street  
Georgetown, DE 19947  
Attorney for Plaintiff

/s/ Brian F. Dolan  
BY: \_\_\_\_\_  
Brian F. Dolan  
I.D. #3190

DATED: May 18, 2007

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Michael Mastromarino  
Biomedical Tissue Services, Ltd.  
8 Buckingham Rd.  
Fort Lee, NJ 07024

2. Article Number

(Transfer from service label)

RE 182 299 312 US

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *[Signature]*☒ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below:☐ Yes☒ No

3. Service Type

☐ Certified Mail☐ Express Mail☒ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
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☐ Yes

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REGENERATION TECHNOLOGIES,	:	
INC., and MEDTRONIC SOFAMOR	:	JURY TRIAL OF TWELVE DEMANDED
DANEK, USA, INC.,	:	
	:	
Defendants.	:	

**AFFIDAVIT OF ATTORNEY**

BRIAN F. DOLAN, ESQUIRE, being duly sworn according to law, deposes and says:

1. That the law firm of Stumpf, Vickers & Sandy, P.A. is the attorney for Plaintiffs in C. A. No. 07-222(GMS) wherein Biomedical Tissue Services, Ltd., and Michael Mastromarino are Defendants.

2. Defendant, Biomedical Tissue Services, Ltd., is a non-resident corporation of the State of Delaware.

3. Defendant, Michael Mastromarino, is a non-resident of the State of Delaware.

4. The notice required in 10 Del. C. §3104 was mailed, by registered mail, postage prepaid, return receipt requested on May 4, 2007. The receipts from Defendants, Biomedical Tissue Services and Michael Mastromarino were returned to sender on May 14, 2007.

5. The notice provided for in 10 Del. C. §3104 was contained in the envelopes at the time they were mailed.

6. The receipts obtained at the time of mailing the envelopes containing the notice were the receipts filed with this Affidavit.

/s/ Brian F. Dolan

Brian F. Dolan

I.D. No. 3190

SWORN TO AND SUBSCRIBED before me this 18<sup>th</sup> day of May, 2007.

/s/ Donna G. Mitchell

Notary Public



ATTORNEYS AT LAW

## Stumpf Vickers and Sandy, P.A.

VINCENT H. VICKERS II  
JOHN M. SANDY  
THOMAS E. GAY  
BRIAN F. DOLAN

8 WEST MARKET STREET GEORGETOWN, DE 19947

302-856-3561  
(Fax) 302-856-0956  
(Fax) 302-856-3985

May 4, 2007

Biomedical Tissue Services, Ltd.  
8 Buckingham Road  
Fort Lee, NJ 07024

RE: Rust v. Biomedical Tissue Services, Ltd., et al.  
C. A. No: 06C-12-020 JTV

Dear Sir/Madam:

Enclosed herein please find a copy of the Amended Complaint filed in the Superior Court of the State of Delaware in and for Sussex County. Also, enclosed is a copy of the process.

Service of the original of such process has been made upon the Secretary of State of the State of Delaware. This service was made upon the Secretary of State on your behalf since you are a non-resident of the State of Delaware.

Under the provisions of Delaware law in regard to obtaining service upon non-residents (10 Del. C. §3104), the service of process upon the Secretary of State is as effectual to all intents and purposes as if it had been made upon you personally within this State.

In summary, a law suit has been filed against you in Sussex County, Delaware. An Answer to the Complaint is required. You should immediately advise your insurance company of this and/or your attorney.

Sincerely yours,



Brian F. Dolan

BFD/dm  
Enclosures  
Registered Mail-Return Receipt Requested

Registered No.

RE 182 299309 LIS

Date Stamp

To Be Completed  
By Post Office

Reg. Fee

T.90

Handling  
ChargeReturn  
Receipt

1.85

Postage

1.11

Restricted  
Delivery

Received by

S.W.

Customer Must Declare  
Full Value \$☐ With Postal  
Insurance☒ Without Postal  
InsuranceDomestic Insurance up to  
\$25,000 is included in the fee.  
International Indemnity  
is limited.  
(See Reverse).

OFFICIAL USE

To Be Completed By Customer  
(Please Print)  
All Entries Must Be in Ballpoint or Typed

FROM

Stampf, Vickers & Sandy, P.A.  
8 West Market St.  
Georgetown, DE 19947

TO

Biomedical Tissue Services, Ltd.  
8 Buckingham Rd.  
Fort Lee, NJ 07024

PS Form 3806, Receipt for Registered Mail

Copy 1 - Customer

May 2004 (7530-02-000-9051)

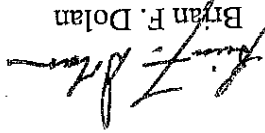
(See Information on Reverse)

For domestic delivery information, visit our website at [www.usps.com](http://www.usps.com)®





BFD/dm  
Enclosures  
Registered Mail-Return Receipt Requested

  
Brian F. Dolan

Sincerely yours,

Enclosed herein please find a copy of the Amended Complaint filed in the Superior Court of the State of Delaware in and for Sussex County. Also, enclosed is a copy of the process. Service of the original of such process has been made upon the Secretary of State of the State of Delaware. This service was made upon the Secretary of State on your behalf since you are a non-resident of the State of Delaware. Under the provisions of Delaware law in regard to obtaining service upon non-residents (10 Del.C. §3104), the service of process upon the Secretary of State is as effectual to all intents and purposes as if it had been made upon you personally within this State. In summary, a law suit has been filed against you in Sussex County, Delaware. An Answer to the Complaint is required. You should immediately advise your insurance company of this and/or your attorney.

Dear Mr. Mastromarino:

RE: Rust v. Biomedical Tissue Services, Ltd., et al.  
C. A. No: 06C-12-020 JTV

Michael Mastromarino  
Biomedical Tissue Services, Ltd.  
8 Buckingham Road  
Fort Lee, NJ 07024

May 4, 2007

302-856-3561  
(Fax) 302-856-0956  
(Fax) 302-856-3985

Stumpf Vickers and Sandy, P.A.

ATTORNEYS AT LAW



8 WEST MARKET STREET GEORGETOWN, DE 19947

VINCENT H. VICKERS II  
JOHN M. SANDY  
THOMAS E. GAY  
BRIAN F. DOLAN

PS Form 3806, Receipt for Registered Mail  
May 2004 (7530-02-000-9051)  
For domestic delivery information, visit our website at www.usps.com®  
Copy 1 - Customer (See Information on Reverse)

TO		FROM	
Michael Mastromarino Biomedical Tissue Services, Ltd 8 Buckingham Rd. Fort Lee, NJ 07024		Stumpf, Vickers & Sandy, PA 8 West Market St. Georgetown, DE 19947	

Official Use

Customer Must Declare Full Value \$ <u>0</u>		<input checked="" type="checkbox"/> Without Postal Insurance <input type="checkbox"/> With Postal Insurance <small>Domestic Insurance up to \$25,000 is included in the fee. International indemnity is limited. (See Reverse).</small>	
Reg. Fee	7.90	Handling Charge	
Postage	1.35	Return Receipt	1.85
Received by	S.W.	Restricted Delivery	

Registered No. RE182799312 US

Date Stamp